CLU ADVANCED LEARNING SERIES

CASE STUDY: ESTATE PLANNING WITH TRUSTS

Advocis

Case Study: Estate Planning with Trusts

Learning Objective

- Identify how trusts can be used to achieve non-tax objectives
- Identify the need for planning for incapacity
- Analyze a client's current financial status and financial planning objectives with a view to determining a planning strategy involving the use of trusts
- Illustrate the benefits of the use of trusts in estate planning

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Question

Suggest four steps that the couple might take, utilizing their wills or outside the structure of the will, to achieve their objectives.

References

257 Advanced Estate Planning Study Guide (pp. 2-29 to 2-35)
Wealth Planning Strategies for Canadians, 2019 Edition (Chapter 23)
Estate Planning with Life Insurance, 6th Edition (Chapter 10)

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Solution

1. The couple might consider transferring at least some of their assets to a joint spousal trust, administered by an independent third party. Ernie could undertake the transfer on a tax-deferred rollover basis immediately, while Ruth could do so next year when she turns age 65. They would still be beneficiaries of the income of the trust but they would be removed from direct control of the capital, protecting them (potentially) from their own bad decisions.

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Solution, continued

1., continued: They have stated that they do not need access to the capital, which makes this option practical. They could name themselves as trustees and a competent, independent third party as a contingent or a third trustee.

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Solution, continued

2. They should execute powers of attorney for property in favour of each other and a competent, independent third party as a contingent attorney.

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Solution, continued

3. Since the couple's children are financially irresponsible, the couple would not likely want to leave them direct access to almost $3,000,000 of assets when the last of Ernie and Ruth dies. The fear would be that the children would mismanage the assets for their own benefit and have little or nothing left to leave to Ernie and Ruth's grandchildren. Leaving the assets to a testamentary trust for the benefit of the children as income beneficiaries and then to the grandchildren as capital beneficiaries could sidestep this problem.

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Solution, continued

4. In order to protect the $400,000 of life insurance proceeds from both the children and creditors, and avoid probate fees, Ernie and Ruth could establish a testamentary trust in their wills and name the trustees of that trust as beneficiary under the policy.